



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

August 30, 2011

BY HAND

Stephen H. Rosen
100 Almeria Avenue, Suite 205
Coral Gables, FL 33134

Frank A. Doddato
666 Old Country Road
Suite 501
Garden City, New York 11530

Re: **United States v. Christopher Michael Coke,**
S17 07 Cr. 971 (RPP)

Dear Messrs. Rosen & Doddato:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from Christopher Michael Coke ("the defendant") to Counts One and Two of the above-referenced Information.

Count One charges the defendant with racketeering conspiracy, in violation of Title 18, United States Code, Section 1962(d). This charge carries a maximum sentence of twenty years' imprisonment, a maximum term of 5 years' supervised release, a maximum fine, pursuant to Title 18, United States Code, Section 3571, of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant as a result of the offense, and a mandatory \$100 special assessment.

Count Two charges the defendant with conspiracy to commit assault with a dangerous weapon in aid of racketeering, in violation of Title 18, United States Code, Section 1959(a)(6). Count Two carries a maximum penalty of 3 years' imprisonment; a maximum term of supervised release of one year; a maximum fine, pursuant to Title 18, United States Code, Section 3571, of the greatest of \$250,000, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant as a result of the offense; and a mandatory \$100 special assessment.

The total maximum term of imprisonment on Counts One and Two is 23 years.

In consideration of the defendant's plea to the above offenses, the defendant will not be further prosecuted criminally by this Office (except for criminal tax violations as to which this Office cannot, and does not, make any agreement) for (1) his leadership of the Presidential Click, a criminal organization based in Kingston, Jamaica, that operated in the New York area and elsewhere, and his participation in the distribution of narcotics, the dealing in firearms without a license, and assault, in connection with conducting the affairs of the Presidential Click organization, as charged in Count One of the Information, from at least 1994 up to and including in or about June 2010 and (2) his participation in a conspiracy to commit an assault with a dangerous weapon in aid of racketeering in or around May 2007 in connection with the stabbing of a marijuana trafficker in the Bronx, New York, as charged in Count Two of the Information. In addition, at the time of sentencing, the Government will move to dismiss any open Counts against the defendant. The defendant agrees that with respect to any and all dismissed charges he is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

The defendant further agrees that a plea to the above-referenced charges is consistent with the Rule of Specialty set forth at Article XIV of the Extradition Treaty Between the Government of the United States of America and the Government of Jamaica (June 14, 1983) and waives any right he might otherwise have to challenge these charges under that Treaty or any other applicable law.

In consideration of the foregoing and pursuant to United States Sentencing Guidelines ("U.S.S.G." or "Guidelines") Section 6B1.4, the parties hereby stipulate to the following:

A. Offense Level

1. The Guidelines provisions in effect as of November 1, 2010, apply to this case.

Count One: Racketeering Conspiracy

2. The Guideline applicable to the offense charged in Count One of the Information is U.S.S.G. § 2E1.1. As set forth below, because the offense level applicable to the underlying racketeering activity (narcotics trafficking conspiracy) is greater than level 19, the applicable offense level for Count One is calculated using U.S.S.G. § 2D1.1.

3. The defendant conspired to distribute at least 3,000 but less than 10,000 kilograms of marijuana, resulting in an initial base offense level of 34, pursuant to U.S.S.G. § 2D1.1(c)(3).

4. The defendant conspired to distribute at least 15 but less than 50 kilograms of cocaine. Pursuant to the conversion tables set forth in U.S.S.G. § 2D1.1, Application Note 10(E), 1 gram of cocaine is the equivalent of 200 grams of marijuana; therefore 15 kilograms of cocaine is the equivalent of 3,000 kilograms of marijuana. Accordingly, combining the amount of marijuana

that the defendant conspired to distribute (at least 3,000 kilograms) with the marijuana-equivalent of the amount of cocaine that the defendant conspired to distribute (at least 3,000 kilograms) results in a total of 6,000 kilograms of marijuana. Therefore, the total base offense level for Count One, pursuant to U.S.S.G. § 2D1.1(c)(3), is level 34.

5. Because the defendant received firearms from his co-conspirators in connection with his narcotics trafficking activity, firearms were possessed and therefore the base offense level is increased by two levels, pursuant to U.S.S.G. § 2D1.1(b)(1).

6. Pursuant to U.S.S.G. § 3B1.1(a), because the defendant was an organizer and leader of a criminal activity that involved five or more participants or was otherwise extensive, 4 levels are added.

7. Pursuant to U.S.S.G. § 3C1.2, because the defendant recklessly created a substantial risk of death and serious bodily injury to another person in the course of fleeing from law enforcement officers, 2 levels are added.

8. Accordingly, the total offense level for Count One is 42.

Count Two: Conspiracy to Commit Assault in Aid of Racketeering

9. The Guideline applicable to the offense charged in Count Two of the Information is U.S.S.G. § 2E1.3. As set forth below, because the offense level applicable to the underlying crime and racketeering activity (aggravated assault) is greater than level 12, the applicable offense level for Count Two is calculated using U.S.S.G. § 2A2.2.

10. Pursuant to U.S.S.G. § 2A2.2(a), the base offense level for Count Two is 14.

11. Pursuant to U.S.S.G. § 2A2.2(b)(2)(B), there is a 4-level increase because the conspiracy involved assault with a dangerous weapon.

12. Pursuant to U.S.S.G. § 2A2.2(b)(3)(B), there is a 5-level increase because the victim of the assault sustained serious bodily injury.

13. Pursuant to U.S.S.G. § 3B1.1(a), because the defendant was an organizer and leader of a criminal activity that involved five or more participants or was otherwise extensive, 4 levels are added.

14. Pursuant to U.S.S.G. § 3C1.2, because the defendant recklessly created a substantial risk of death and serious bodily injury to another person in the course of fleeing from law enforcement officers, 2 levels are added.

15. Accordingly, the total offense level for Count Two is 29.

Grouping Analysis

16. Pursuant to U.S.S.G. § 3D1.2(b), Counts One and Two shall be grouped together in a single group, because the counts involve the same victim and more than two acts or transactions connected by a common criminal objective and constituting part of a common scheme or plan.

17. Pursuant to U.S.S.G. § 3D1.3(a), the offense level is 42, the highest offense level of the counts in the group.

Acceptance of Responsibility

18. Assuming the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to § 3E1.1(a), U.S.S.G. Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional 1-level reduction is warranted, pursuant to § 3E1.1(b), U.S.S.G, because the defendant gave timely notice of his intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines offense level on Counts One and Two of the Information is 39.

B. Criminal History Category

Based upon the information now available to this Office (including representations by the defense), the defendant has no criminal history points, as explained below:

1. On or about May 9, 1988, the defendant was convicted in Wake County Supreme Court (North Carolina) of possession of stolen property, a felony, and received a suspended sentence of three years' imprisonment. Where a sentence is suspended, the term "sentence of imprisonment" refers only to the portion that was not suspended, pursuant to U.S.S.G. § 4A1.2. The defendant's criminal history record reflects that he was arrested on this charge in February 1988 and given a suspended sentence in May 1988. Therefore the portion of his sentence that was not suspended is approximately three months and thus the sentence of imprisonment did not exceed one year and one month. As a result, and because this sentence was imposed more than ten years prior to the defendant's commencement of the instant offense in 1999, it is not counted and therefore results in no criminal history points, pursuant to U.S.S.G. § 4A1.2(e)(2).

2. On or about December 16, 1988, the defendant was convicted in the Eastern District of North Carolina of transportation of a firearm in interstate commerce by an illegal alien, in violation of Title 18, United States Code, Section 922(g)(5), and being an illegal alien, in violation

of Title 8, United States Code, Section 1325. The defendant was sentenced to the period of time served from June 9, 1988 to December 16, 1988 (a period of approximately six months) plus ten additional days. Because this sentence was imposed more than ten years prior to the defendant's commencement of the instant offense in 1999, it is not counted and therefore results in no criminal history points, pursuant to U.S.S.G. §4A1.2(e)(2).

In accordance with the above, the defendant is in Criminal History Category I.

C. Sentencing Range

Based upon the calculations set forth above, the defendant's stipulated Guidelines range is 262 to 327 months' imprisonment. However, because Counts One and Two have a combined statutory maximum of 276 months' imprisonment, the effective Guidelines range is 262 to 276 months' imprisonment (the "Stipulated Guidelines Range"). In addition, after determining the defendant's ability to pay, the Court may impose a fine pursuant to U.S.S.G. § 5E1.2. At Guidelines level 39, the applicable fine range is \$25,000 to \$250,000.

The parties agree that neither a downward nor an upward departure from the Stipulated Guidelines Range set forth above is warranted. Accordingly, neither party will seek any departure or adjustment pursuant to the Guidelines that is not set forth herein. Nor will either party suggest that the Probation Office consider such a departure or adjustment under the Guidelines, or suggest that the Court *sua sponte* consider any such departure or adjustment.

The parties agree that either party may seek a sentence outside of the Stipulated Guidelines Range, suggest that the Probation Office consider a sentence outside of the Stipulated Guidelines Range, and suggest that the Court *sua sponte* consider a sentence outside of the Stipulated Guidelines Range, based upon the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a).

Except as provided in any written Proffer Agreement(s) that may have been entered into between this Office and the defendant, nothing in this Agreement limits the right of the parties (i) to present to the Probation Office or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Range (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, United States Code, Section 3553(a); (iii) to seek an appropriately adjusted Guidelines range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above; and (iv) to seek an appropriately adjusted Guidelines range or mandatory minimum term of imprisonment if it is subsequently determined that the defendant qualifies as a career offender under U.S.S.G. § 4B1.1. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, *see* U.S.S.G. § 3E1.1, regardless of any stipulation set forth above, if the defendant fails clearly to demonstrate acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the imposition of sentence.

Similarly, nothing in this Agreement limits the right of the Government to seek an enhancement for obstruction of justice, *see* U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should it be determined that the defendant has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

It is understood that pursuant to U.S.S.G. § 6B1.4(d), neither the Probation Office nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Office or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the stipulated Guidelines range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is further understood that the Guidelines are not binding on the Court. The defendant acknowledges that his entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Guidelines range set forth above.

It is agreed (i) that the defendant will not file a direct appeal; nor bring a collateral challenge, including but not limited to an application under Title 28, United States Code, Section 2255 and/or Section 2241; nor seek a sentence modification pursuant to Title 18, United States Code, Section 3582(c), of any sentence within or below the Stipulated Guidelines Range of 262 to 276 months' imprisonment and (ii) that the Government will not appeal any sentence within or above the Stipulated Guidelines Range. This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation. The parties agree that this waiver applies regardless of whether the term of imprisonment is imposed to run consecutively to or concurrently with the undischarged portion of any other sentence of imprisonment that has been imposed on the defendant at the time of sentencing in this case. The defendant further agrees not to appeal any term of supervised release that is less than or equal to the statutory maximum.

The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, *Jencks* Act material, exculpatory material pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to *Giglio*

v. *United States*, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

The defendant recognizes that because he is not a citizen of the United States, his guilty plea and conviction make it very likely that his deportation from the United States is presumptively mandatory and that, at a minimum, he is at risk of being deported or suffering other adverse immigration consequences. The defendant acknowledges that he has discussed the possible immigration consequences (including deportation) of his guilty plea and conviction with defense counsel. The defendant affirms that he wants to plead guilty regardless of any immigration consequences that may result from the guilty plea and conviction, even if those consequences include deportation from the United States. It is agreed that the defendant will have no right to withdraw his guilty plea based on any actual or perceived adverse immigration consequences (including deportation) resulting from the guilty plea and conviction. It is further agreed that the defendant will not challenge his conviction or sentence on direct appeal, or through litigation under Title 28, United States Code, Section 2255 and/or Section 2241, on the basis of any actual or perceived adverse immigration consequences (including deportation) resulting from his guilty plea and conviction.

It is further agreed that should the conviction(s) following the defendant's plea(s) of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

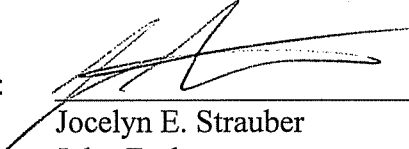
It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Apart from any written Proffer Agreement(s) that may have been entered into between this Office and defendant, this Agreement supersedes any prior understandings, promises, or conditions between this Office and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

PREET BHARARA
United States Attorney

By:


Jocelyn E. Strauber
John Zach
Assistant United States Attorneys
(212) 637-1034/2410

APPROVED:

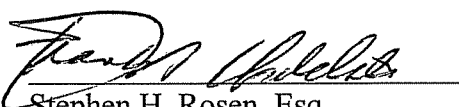

Elle Honig
Deputy Chief, Organized Crime Unit

AGREED AND CONSENTED TO:

Christopher Coke
Christopher Michael Coke

8/30/11
DATE

APPROVED:


Stephen H. Rosen, Esq.
Frank A. Doddato, Esq.
Attorneys for Christopher Michael Coke

8/30/11
DATE